HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 990 of 2005

Appellant	1.	Sunil Kumar, 21 years, S/o Late Makhan Lal Banjara.
	2.	Falmani Devi, 43 years, Wd/o Late Makhan Lal Bnjara.
	3.	Ku. Poornima, 19 years, D/o Late Makhan Lal Banjara.
	4.	Indrajeet, 15 years, S/o Late Makhan Lal Banjara. Appellant/Claimant No.4 is minor, Through natural guardian & mother Smt. Falmani Devi, Wd/o Late Makhan Lal Banjara, All R/o Village-Goindri, Police Station- Patharia, Tahsil- Mungeli, District-Bilaspur (C.G.).
	Versus	
Respondents	1.	Shri Vishnu Prasad, 36 years, S/o Shri Kanhaiya Lal Dhruv, R/o Udaipur, Post-Bandha, Tahsil-Lormi, District- Bilaspur. Driver of Dumper C.G. 12/ZC/1358.
	2.	Shri Santosh Prasad, 46 years, S/o Shri Shiv Prasad Mishra, R/o Gevra Project, S.E.C.L. Korba (C.G.). Owner of Dumper C.G. -12/ZC/1358.
	3.	Shri Mevalal, 36 years, S/o Shri Budhram, R/o Kota, District-Bilaspur (C.G.). Driver of Bus No. C.G. 10/ZA/0181.
	4.	Smt. Gargi, 37 years, W/o Shri Manoj Shrivastava, R/o 27 Kholi, Police Station- Civil Lines, Bilaspur (C.G.). Owner of Bus No. C.G. 10/ZA/0181.
	5.	The New India Insurance Company Ltd. Rajendra Nagar Chowk, Bilaspur (C.G.)

DB: Hon'ble Shri Justice S. R. Nayak, C.J.
& Hon'ble Shri Justice Satish K. Agnihotri, J.

Mr. Saurabh Sharma, Advocate, for the appellants.

Mr. Sri Kumar Agarwal, Standing counsel for the Respondent No.5.

ORAL ORDER

(15th December 2005)

The following order of the Court was passed by **S. R. Nayak, C.J.**

1. In this appeal preferred by the dependents of the deceased seeking more compensation, learned counsel for the appellant would contend that the M.A.C.T. has committed an apparent illegality in applying multiplier 13 instead of applying correct multiplier 15, because, the deceased, as on the date of accident was, aged 45 years. It was also contended that the M.A.C.T. was not justified in not awarding compensation under the conventional heads 'loss to the estate' and 'loss of love and affection' to the minor children. It was further contended that what is awarded to the widow towards 'loss of consortium' is also very much on lower side.

2. Having heard learned counsel for the parties, we are of the considered opinion that the M.A.C.T. has committed an apparent illegality in applying multiplier 13. If the age of the deceased as on the date of accident was 45 years, the appropriate multiplier is 15 not 13. The M.A.C.T. was also not justified in not awarding any compensation under the conventional heads 'loss to the estate' and 'loss of love and affection'. We also find some force in the contention of learned counsel that what is awarded towards 'loss of consortium to the widow' is also on lower side.

3. If we apply multiplier 15, the total 'loss of dependency would' come to Rs. 11,81,160/-(78744 x 15). Accordingly, we award Rs. 11,81,160/-'loss of dependency' as against Rs. 10,23,672/- awarded by the M.A.C.T. Further, we award Rs. 20,000/- towards 'loss to the estate' and Rs. 20,000/- towards 'loss of love and affection' to the minor children. We also enhance compensation under the head 'loss of consortium' to the widow from Rs. 5000/- to Rs. 20,000/-.

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4. In the result and for the foregoing reasons, we allow the appeal in part and in substitution of the impugned award passed by the M.A.C.T. , we award total compensation of Rs. 13,13,160 under the following heads:-

Loss of dependency	Rs 11,81,160/-
Loss of consortium	Rs. 20,000/-.
Funeral expenses	Rs. 2,000/-.
Loss to the estate	Rs. 20,000/-.
Loss of love and affection	Rs. 20,000/-
Loss to the prospects of Future promotions and Increments	Rs. 70,000/-
Total	Rs. 13,13,160/-

with interest at the rate of 9% per annum from the date of the claim petition till payment.

5. The Insurance Company shall deposit the balance compensation money before the M.A.C.T. within six weeks from today. The M.A.C.T. is directed to disburse/invest the compensation money in the same proportions as specified by it in the impugned award.

6. In the facts and circumstances of the case, both the parties are directed to bear their respective costs in this appeal.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Thakur